

1  
2  
3  
4  
5  
6  
7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE DISTRICT OF OREGON

9 IDA ROVERS,

10 Plaintiff,

11 vs.

12 PROVIDIAN NATIONAL BANK,  
13 ET AL.,

14 Defendants.  
\_\_\_\_\_

O R D E R  
Civil No. 05-6122-AA

15 AIKEN, Judge:

16 Defendant Providian National Bank has moved, pursuant to  
17 Fed. R. Civ. P. 12(c) for a judgment on the pleadings. That  
18 motion is granted and Providian is dismissed from this lawsuit.

19 BACKGROUND

20 Plaintiff filed this complaint pursuant to the federal Fair  
21 Credit Reporting Act (FCRA) against defendant Providian National  
22 Bank (Bank) as well as against several other defendants not at  
23 issue here.<sup>1</sup> See 15 U.S.C. § 1681s-2(a)(1)(a). Plaintiff then  
24 filed an amended complaint alleging that the Bank's "entry on  
25 Plaintiff's September 8, 2004 Trans Union and Experian credit  
26 reports is not Plaintiff's debt." First Amended Complaint, ¶ 44.

27 \_\_\_\_\_  
28 <sup>1</sup> Plaintiff actually sued Washington Mutual Bank, successor in  
interest to named defendant Providian Nation Bank.

1 Plaintiff alleges that the reported debt serves as a violation  
2 of FCRA by the Bank. Id. at ¶ 51. As a result of that alleged  
3 violation, plaintiff claims sustained damages in the form of  
4 denied credit, increased cost of borrowing money, damaged credit  
5 scoring, higher interest rates, emotional distress, and attorney  
6 fees. Id. at ¶ 52. Plaintiff also seeks punitive damages and  
7 attorney fees pursuant to 15 U.S.C. § 1681n for willful  
8 noncompliance with the FCRA. Id. at ¶ 2.

#### 9 STANDARDS

10 Fed. R. Civ. P. 12(c) states that "[a]fter the pleadings are  
11 closed, but within such time as not to delay the trial, any party  
12 may move for judgment on the pleadings." "A judgment on the  
13 pleadings is properly granted when, taking all the allegations in  
14 the pleading as true, the moving party is entitled to judgment as  
15 a matter of law." Smith v. National Steel & Shipbuilding Co.,  
16 125 F.3d 751, 753 (9<sup>th</sup> Cir. 1997).

#### 17 DISCUSSION

18 Plaintiff's claim under § 1681s-2(b) fails against the Bank.  
19 That section applies when a furnisher of information, "receiv[es]  
20 notice pursuant to section 1681i(a)(2) . . . of a dispute with  
21 regard to the completeness or accuracy of any information  
22 provided." Section 1681i(a)(2) requires a credit reporting  
23 agency (CRA), once notified by a consumer that information in its  
24 files is disputed, to reinvestigate the accuracy of the  
25 information or delete it and, within five business days, to  
26 notify the person who furnished it with the information of the  
27 dispute. Upon receiving notice of the dispute from the CRA, the  
28 furnisher of information has five duties: (1) to conduct an

1 "investigation with respect to the disputed information; (2) to  
2 review all relevant information provided by the CRA; (3) to  
3 report the results of its investigation to the CRA; (4) if the  
4 investigation finds the information is incomplete or inaccurate  
5 to report those results "to all [nationwide] consumer reporting  
6 agencies to which the person furnished the information;" and (5)  
7 if the investigation finds the information incomplete or  
8 inaccurate or unverifiable, modify, delete or block the  
9 information to ensure it is not reported agin to a CRA. 15  
10 U.S.C. § 1681s-2(b)(1)(A-E).

11 Despite the First Amended Complaint at issue here, plaintiff  
12 fails to allege that the Bank ever received notice from a CRA  
13 concerning the disputed information, or that the Bank did not  
14 fully comply with the reinvestigation and reporting duties that  
15 are triggered by such notice. Further, upon my review of the  
16 record, including the pleadings at issue here, I am unable to  
17 find any evidence or allegations in support of plaintiff's claim  
18 against the Bank. In the absence of such allegations,  
19 plaintiff's FCRA claim against the Bank fails as a matter of law.

20 Moreover, I find no evidence or allegation by the plaintiff  
21 that the Bank willfully violated the FCRA. First Amended  
22 Complaint, ¶¶ 2, 44, 51, 52. Therefore, plaintiff's claims for  
23 punitive damages and attorney fees pursuant to § 1681n fail as a  
24 matter of law. See Howard v. Blue Ridge Bank, 371 F.Supp. 2d  
25 1139, 1143 (N.D. Ca. 2005) (motion to dismiss granted where  
26 factual allegations insufficient to support defendant's willful  
27 noncompliance with the FCRA).

28 ///

## CONCLUSION

Defendant Providian National Bank's motion for judgment on the pleadings (doc. 64) is granted. Defendant's request for oral argument is denied as unnecessary.

IT IS SO ORDERED.

Dated this 7 day of February 2006.

/s/ Ann Aiken  
Ann Aiken  
United States District Judge